

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PENNSYLVANIA

FILED
Harrisburg, PA

SEP 10 2020

In re

Russel P. Blust

Debtor

US BANK NATIONAL ASSOCIATION

AS TRUSTEE FOR BEAR STEARNS

ASSET BACKED

SECURITIES TRUST 2004-C3

Clerk,
US Bankruptcy Court

Chapter 13
Case No. 15-02826HWV

DEBTOR'S MOTION TO ENFORCE AUTOMATIC STAY

Information Russel P Blust Sr. (the "Debtor"), debtor pro se, for itself and its duly formed active series,¹ files this Motion To Enforce Automatic Stay, and in support hereof states as follows:

JURISDICTION

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334.
2. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND AND FACTS

3. On July 2, 2015 (the “Petition Date”), the Debtor filed a voluntary petition for relief under Chapter 13 of the Bankruptcy Code. Since the Petition Date, the Debtor has managed its affairs as a debtor in possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code.

4. The Debtor is a personal and Sole Proprietorship with the same home and business address located at 701 Drexel Rd. Harrisburg, Pa 17109.

5. The Debtor had the financial hardship of the economy and Wells Fargo, American Servicing Company, and US Bank National Association as trustee for Bear Stearns asset backed securities trust 2004-AC3 credit violations. Wells Fargo, American Servicing Company and US Bank National Association as trustee for Bear Stearns asset backed securities trust 2004-AC3 refused to take mortgage payments, continually sent mail to the rental address located at 1334 Vernon St. Harrisburg, Pa 17104. Also, did in person inspections numerous times having contact with the tenants. At this time tenants stopped paying rent as they were informed by inspector "he's going to lose the building anyway so why would you pay rent?"

6. July 2, 2015 Debtor filed Chapter 13 Bankruptcy.

7. Wells Fargo, American Servicing Company, and US Bank National Association as trustee for Bear Stearns asset backed securities trust 2004-AC3 continued to send letters to rental address even after Bankruptcy was filed and they had been informed thus violating the automatic stay.

8. Wells Fargo, American Servicing Company, and US Bank National Association as trustee for Bear Stearns asset backed securities trust 2004-AC3 continue to send inaccurate statements with conflicting amounts to the rental address. Debtor is still unsure of exact totals due to nothing but inaccuracies.

9. Wells Fargo, American Servicing Company, and US Bank National Association as trustee for Bear Stearns asset backed securities trust 2004-AC3 sent inspectors to the rental property who told tenants Debtor was in Bankruptcy and Debtor was going to lose the building.

10. Numerous communications were sent back and forth between myself and my attorney about all the collection violations and Automatic Stay violations.

11. Letters, account statements, and communications are still being sent to the rental property regularly and has taken place during the entire bankruptcy.

12. There are many purposes for the imposition of the automatic stay, and these including providing the debtor with “a breathing spell from his creditors. It stops all collection efforts, all harassment, and all foreclosure actions. It permits the debtor to attempt a repayment or reorganization plan, or simply to be relieved of the financial pressures that drove him into bankruptcy.” *Univ. Med. Ctr. v. Sullivan (In re Univ. Med. Ctr.)*, 973 F.2d 1065, 1074 (3rd Cir. 1992) (citing H.R. REP. NO. 95-595, at 340 (1977), as reprinted in 1978 U.S.C.C.A.N. 5963, 6296-97). “[T]he stay protects the bankrupt’s estate from being eaten away by creditors’ lawsuits and seizures of property before the trustee has had a chance to marshal the estate’s assets and distribute them equitably among the creditors.” *Maritime Elec. Co., Inc. v. United Jersey Bank*, 959 F.2d 1194, 1204 (3rd Cir. 1991) (quoting *Martin-Trigona v. Champion Fed. Sav. & Loan Assoc.*, 892 F.2d 575, 577 (7th Cir. 1989).

13. “The stay of § 362 is ‘automatic’ because it is triggered as against all entities upon the filing of a bankruptcy petition, irrespective of whether the parties to the proceedings stayed are aware that a petition has been filed.” *Id.* (citations omitted). The automatic stay “is mandatory and applicable to all entities, including state and federal courts.” *Id.* (citations omitted).

14. Under § 362(k) of the Bankruptcy Code, “an individual injured by any willful violation of a stay provided by this section shall recover actual damages, including costs and attorneys’ fees, and, in appropriate circumstances, may recover punitive damages.” “It is a willful violation of the automatic stay when a creditor violates the stay with knowledge that the bankruptcy petition has been filed. Willfulness does not require that the creditor intend to violate the automatic stay provision, rather it requires that the acts which violate the stay be intentional....

[A] creditor’s ‘good faith’ belief that he is not violating the automatic stay

provision is not determinative of willfulness” *Landsdale Family Rests., Inc.*

v.

Weis Food Serv. (In re Landsdale Family Rests., Inc.), 977 F.2d 826, 829 (3rd Cir. 1992).

15. Wells Fargo, American Servicing Company, and US Bank National Association as trustee for Bear Stearns asset backed securities trust 2004-AC3 damages are both fiscal—insofar as they have been unable to meet the needs of their personal assets, their bills, their family, and other day-to-day obligations that people with a regular paycheck dont have to—and emotional. Therefore, the Debtor reserves the right to prove, or to enable them to prove, their damages arising from the Wells Fargo, American Servicing Company and US Bank National Association as trustee for Bear Stearns asset backed securities trust 2004-AC3 willful violation of the automatic stay.

16. The Debtor, for itself and the others injured by the Wells Fargo, American Servicing Company and US Bank National Association as trustee for Bear Stearns asset backed securities trust 2004-AC conduct in this case, also reserves the right to seek an appropriate award of attorneys' fees and punitive damages.

WHEREFORE, Debtor requests that this Honorable Court enter an order of judgment:

I.

(I) Declaring:

(a) that the continuing to deliver numerous letters to the rental address which differ completely from mailing address and a prepetition judgment is a violation of the automatic stay codified at 11 U.S.C. § 362(a);

(b) that sending monthly statements to the rental property which hindered the collection of rental income, also the constant conflicting amounts is a willful violation by the Wells Fargo, American Servicing Company, and US Bank National Association as trustee for Bear Stearns asset backed securities trust 2004-AC3 of the automatic stay codified at 11 U.S.C. § 362(a);

(c) that the sending of numerous inspectors some multiple times in a month and also having conversations with tenants telling them Debtor is going to lose his building so you dont have to pay rent is a direct violation of the automatic stay codified at 11 U.S.C. § 362(a)

(d) Bankruptcy code requires that monthly statements be clear and if they can't be a separate account needs to be prepared to clearly specify balance due that are not included in the bankruptcy payment plan.

(II) Determining that the Debtor, Russel P. Blust are an individual injured by the Wells Fargo, American Servicing Company and US Bank National Association as trustee for Bear Stearns asset backed securities trust 2004-AC3

above-described willful

violations of the automatic stay, and awarding them actual damages (including but

Association as trustee for Bear Stearns asset backed securities trust 2004-AC3

above-described willful

violations of the automatic stay, and awarding them actual damages (including but not limited to damages arising from emotional distress) and attorneys' fees on , rental income loss account of such violations, and punitive damages in the amount of three times the other amounts awarded; and

(III) Granting the Debtor, for itself, Russel P. Blust , such further relief as this Court deems just and proper.

Respectfully Submitted
Russel P. Blust, Pro Se

Russel Blust
701 Drexel Rd.
Harrisburg, Pa 17109

FILED

Harrisburg, PA

CV-Certificate of Service (Service of Papers Other than Citation)

Instructions: Every notice, pleading, plea, motion, or request made to the court must be served on all other parties in person, by mail or courier, by fax, by e-mail with consent, or in another manner directed by the court. Pleadings and documents other than a citation may be served by a party to the suit, an attorney of record, a sheriff or constable, or any other person competent to testify. Proof of such service must be evidenced by a certificate of service signed by a party or the party's attorney of record, or signed and verified when the service is made by any other person, and attached to the document filed with the Court. Rule 501.4

SEP 10 2020

CERTIFICATE OF SERVICE

Clerk,
U.S. Bankruptcy Court
Case # 15-bk-02826-HW

I certify that this document was served on all parties to this lawsuit as follows:

Name of Document: DEBTOR'S MOTION TO ENFORCE AUTOMATIC STAY

Method of Service (include information for each party to the lawsuit served with the document):

Personal Delivery:

Name of Party or Party's attorney of record or agent, if any: Russel P Blust SR
Address: 701 DREXEL RD HARRISBURG PA 17109
Date delivered: SEPT 10 2020
Person delivering document: Russel P Blust SR LLC

Mail or Courier:

Name of Party or Party's attorney of record or agent, if any: SPECIALIZED LOAN SERVICING
Address: 8742 LUCENT BLVD SUITE 300 HIGHLANDS RAFFLE
Date mailed: 9/10/2020 Certified Mail Receipt No.: 7018 0040 0000 7525 1372
Courier: _____
Date of courier delivery: _____ Courier Receipt No.: _____

Fax

Name of Party or Party's attorney of record or agent, if any: _____
Date and time fax sent: _____ Fax number: _____

Email

Name of Party or Party's attorney of record or agent, if any: _____
Date and time email sent: _____ Email address: _____

Signed on 9/10/2020

Signature of Party or Party's Attorney of Record

Signed on 9/10/2020

Signature of Person Providing Notice

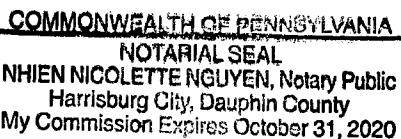
(VERIFICATION REQUIRED IF SERVICE IS BY A PERSON OTHER THAN A PARTY OR PARTY'S

ATTORNEY) I declare under penalty of perjury that the information in this Certificate of Service is true and correct.

Signed on 09/10/2020 in Dauphin, County, Pennsylvania

Signature of Person Providing Notice

Printed Name: Russel P Blust
Address: 701 DREXEL RD HOB PA 17109
Date of Birth: 11/22/1961



NHIEN NICOLETTE NGUYEN
Notary Public

FILED
Harrisburg, PA

CV-Certificate of Service (Service of Papers Other than Citation)

Instructions: Every notice, pleading, plea, motion, or request made to the court must be served on all other parties in person, by mail or courier, by fax, by e-mail with consent, or in another manner directed by the court. Pleadings and documents other than a citation may be served by a party to the suit, an attorney of record, a sheriff or constable, or any other person competent to testify. Proof of such service must be evidenced by a certificate of service signed by a party or the party's attorney of record, or signed and verified if the service is made by any other person, and attached to the document filed with the Court. Rule 501.4

SEP 10 2020

Clerk,

CERTIFICATE OF SERVICE

US Bankruptcy Court

CASE # 15-02826-HWV

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Personal Delivery:

Name of Party or Party's attorney of record or agent, if any: Russel P Blust Sr
Address: 701 Drexel Rd Harrisburg PA 17109
Date delivered: SEPT 10 2020
Person delivering document: Russel P Blust Sr

Mail or Courier:

Name of Party or Party's attorney of record or agent, if any: CHARLES J DEMART III
Address: 8125 Adams Dr Suite A Hummestown PA 17036
Date mailed: _____ Certified Mail Receipt No.: 7018 0040 0000 7575 1360
Courier: _____
Date of courier delivery: _____ Courier Receipt No.: _____

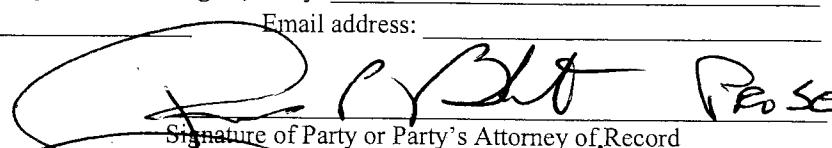
Fax

Name of Party or Party's attorney of record or agent, if any: _____
Date and time fax sent: _____ Fax number: _____

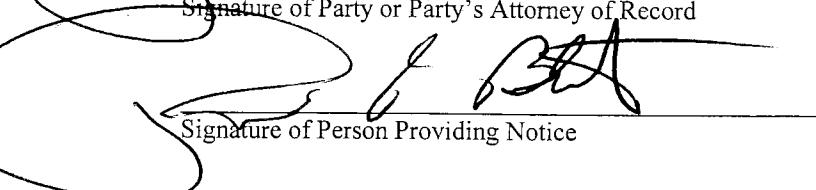
Email

Name of Party or Party's attorney of record or agent, if any: _____
Date and time email sent: _____ Email address: _____

Signed on 9/10/2020


Signature of Party or Party's Attorney of Record

Signed on 9/10/2020


Signature of Person Providing Notice

(VERIFICATION REQUIRED IF SERVICE IS BY A PERSON OTHER THAN A PARTY OR PARTY'S

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Signed on 09/10/2020 in Dauphin, County, Pennsylvania


Signature of Person Providing Notice

Printed Name: Russel P Blust
Address: 701 Drexel Rd Hbg PA 17109
Date of Birth: 11/22/1961

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
NHIEN NICOLETTE NGUYEN, Notary Public
Harrisburg City, Dauphin County
My Commission Expires October 31, 2020



Notary Public